HIGH COURT OF UTTARANCHAL AT NAINITAL

REVIEW PETITION NO. 260 OF 2006

IN

WRIT PETITION NO. 1510 (SS) OF 2001

(Old No. 35210 of 1994)

Ajay Kumar Jain
S/o Sri Naresh Chandra jain,
Brassware Merchant Chowk Bazar,
Town and Post Roorkee,
District-Haridwar. .....Petitioner.

Versus

1. District Magistrate, Haridwar.
2. District Treasury Officer, Haridwar.
3. Treasury Officer, Roorkee.
4. Dheeraj Saxena, S/o late Krishna Kumar Saxena, 2/2480 Narain Puri, Saharanpur. .....Respondent.

Hon'ble Rajesh Tandon, J.

Heard Sri Subhash Upadhyay, Advocate for the petitioner and Sri Vishvendra Verma, counsel for the respondent no.4.

2. At the time of the disposal of the writ petition, Sri Subhash Upadhyay has argued the matter. The arguments were heard and a direction was made that if the petitioner is still continuing he may continue but no mandamus can be issued as prayed by the petitioner.

3. Present review application has been filed on the ground that no opportunity was given to the petitioner to show cause as to how the appointment was illegal and the order has been passed without giving any opportunity to the petitioner.

4. A perusal of the appointment order shows that it has been cancelled on the ground that there is nothing on the record fulfilling the procedural requirements with regard to the

appointment of the petitioner and therefore, the same has been cancelled.

5. However, since I have already pointed out that if the petitioner is already continuing, it will be open for him to continue but no mandamus can be granted in his favour. It will be open for the petitioner to satisfy the authority concerned that after due process, he was appointed.

6. In case, the petitioner is able to show the authority concerned that his appointment was made after following the procedure for the appointment, the same shall be considered by the authority concerned. However there is no occasion to review the order passed by this court, and it will be open for the authority concerned to consider the same in the light of the judgment of the apex court reported ***in 2006 (4) SCC 1 Secretary State of Karnataka v. Uma Devi.***

7. However, any order after the order dasted 28.8.2006 has been passed against the petitioner, liberty is given to the petitioner to challenge the same in accordance with law in appropriate forum by filing the fresh writ petition.

8. Subject to above, review application is disposed of. No order as to costs.

(Rajesh Tandon, J.)

13.11.2006
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